

### **REMARKS**

The Final Office Action of June 2, 2010 has been reviewed and the comments therein were carefully considered. Claims 1, 3, 4, 6-14, 16-22, 24-36 and 41-49 stand rejected. Claims 1, 13, 17, 21, 26, 31, 34, 41, 45, and 48 have been amended. Claims 13, 14, 16, and 45-49 have been canceled without disclaimer or prejudice. No new matter has been introduced into the application. Upon entry of this amendment, claims 1, 3, 4, 6-12, 17-22, 24-36, and 41-43 will be pending in the application. As explained in more detail below, Applicants submit that all claims are in condition for allowance and respectfully request such action.

#### **Claim Rejections – 35 USC § 103**

Claims 1, 3, 4, 6-14, 16-22, 24-36, and 41-49 were rejected under 35 USC § 103(a) as being unpatentable over U.S. Patent No. 6,269,285 to Mignault (“Mignault”) in view of U.S. Publication No. 2005/0279722 to Ali (“Ali”) and official notice. Applicants respectfully request withdrawal of these rejections.

As suggested by the Examiner, independent claim 21 has been amended to recite, “the store computer configured to receive the code and to transmit a signal in response to the code and compare the code to a previous pusher code, and further configured to determine a movement of the pusher assembly and a rate of change in a product level, and further configured to provide a notification when a deviation in the typical movement of the pusher assembly and rate of change of product level has occurred.” Support for these amendments can be found throughout the specification as filed, and specifically in paragraphs [0071], [0077], and [0083]-[0084]. As indicated in the Office Action, amended claim 21 is allowable over the art of record. *See* Office Action, pgs. 5-6.

As suggested by the Examiner, independent claim 1 has been amended to recite, “the processing device configured to receive the transmitted code, and further configured to determine the movement of the pusher assembly and a rate of change in a product level, and further configured to provide a notification when a deviation in the typical movement of the pusher assembly and rate of change of product level has occurred.” Applicants respectfully submit, as indicated in the Office Action, amended claim 1 is allowable over the art of record. *See* Office Action, pg. 6.

Independent claims 17, 26, 31, 34, and 41 have been amended to recite substantially the same features as discussed above with respect to claim 1. Accordingly, Applicants respectfully submit, as indicated in the Office Action, amended claims 17, 26, 31, 34, and 41 are also allowable over the art of record. *See* Office Action, pg. 6.

Dependent claims 3-4, 6-12, 18-20, 22, 25, 27-31, 32-33, 35-36, and 42-44 depend from claims 1, 17, 21, 26, 31, 34, or 41. Accordingly, claims 3-4, 6-12, 18-20, 22, 25, 27-31, 32-33, 35-36, and 42-44 are allowable over the art of record for at least the same reasons as their ultimate base claim.

Claims 13, 14, 16, and 45-49 have been canceled rendering the rejections moot.

### **CONCLUSION**

The Applicants respectfully request consideration of the application and allowance of all pending claims. Please feel free to contact the undersigned should any questions arise with respect to this case that may be addressed by telephone.

Respectfully submitted,  
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